

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

09 MAY 11 AM 10:59

UNITED STATES OF AMERICA  
vs.  
William Jesus VILLA,  
Ricardo VILLA, &  
Nancy ORTIZ-VILLA

Magistrate's Case No.

COMPLAINT FOR VIOLATION OF  
18 U.S.C. 111(a)(1)

Assaulting, resisting, or impeding certain officers

09 MJ 1493

The undersigned complainant being duly sworn states:

COUNT ONE

That on or about May 8, 2009, within the Southern District of California, defendants William Jesus VILLA, Ricardo VILLA, and Nancy ORTIZ-VILLA did forcibly assault, resist, oppose, impede, intimidate, or interfere with Customs and Border Protection Officers, who are persons designated in Title 18, United States Code, Section 1114, while they were engaged in the performance of their official duties; in violation of Title 18, United States Code, Section 111(a)(1).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
Signature of Complainant  
U.S. Immigration and Customs Enforcement

Sworn to before me and subscribed in my presence, this 11<sup>th</sup> day of May, 2009.

  
United States Magistrate Judge

DEA  
S 19/09  
DET 2-3  
5/8/09

United States of America  
VS.  
William Jesus VILLA,  
Ricardo VILLA, &  
Nancy ORTIZ-VILLA

PROBABLE CAUSE STATEMENT

On May 8, 2009, at approximately 6:48 p.m., William VILLA (driver), Francisca REYES (passenger), Ricardo VILLA (passenger), Nancy ORTIZ-Villa (passenger) and William VILLA's minor son attempted to enter the United States from Mexico through the Otay Mesa Port of Entry, San Diego, CA. W. VILLA, REYES, R. VILLA, ORTIZ-Villa and the minor were occupants of a Volkswagen Beetle bearing California license plate 5NVH752. A U.S. Customs and Border Protection (CBP) Officer made contact with W. VILLA, REYES, R. VILLA, ORTIZ, and the minor on primary lane 6. When the CBP Officer made contact with W. VILLA, he did not have any documents ready to present for inspection. The CBP Officer advised the driver and all the passengers to have their documents ready before they approached the booth for inspection. W. VILLA then presented the officer with his California driver's license, a Border Crossing Card for REYES, a California driver's license for R. VILLA, and a California driver's license for ORTIZ. The CBP Officer asked W. VILLA if he had proof of citizenship. W. VILLA stated that he had two (2) forms of identification and the officer could check the computer for his citizenship. The CBP Officer told W. VILLA that the documents he presented were not sufficient to establish citizenship. The CBP Officer stated that a further inspection was necessary. The CBP Officer then observed a minor in the back seat. The CBP Officer asked the driver the citizenship of the minor. W. VILLA replied that the minor was a United States Citizen. W. VILLA then told the officer to "shut the fuck up" and requested the secondary referral ticket. The CBP Officer observed that W. VILLA was showing his fist,

1 blading his head, and baring his teeth. The CBP Officer radioed for assistance concerning a non-  
2 compliant individual.

3 The first CBP Officer to respond to the request for assistance approached lane #6 and  
4 observed W. VILLA yelling profanities at the primary CBP Officer and pointing his finger at the  
5 officer in a threatening manner. The CBP Officer asked the primary officer what was happening.  
6 The primary CBP Officer stated that the subject was being non-compliant. The responding CBP  
7 Officer attempted to place the driver's hands behind his back and W. VILLA quickly pulled  
8 away. The CBP Officer then attempted and instructed W. VILLA to place his arms behind his  
9 back and to quit resisting him. The CBP Officer then placed his right hand on W. VILLA's back  
10 while attempting to gain control of his left hand. The CBP Officer then felt the rear passengers  
11 attempting to grab the officer's arm, yelling and cursing at him. The CBP Officer felt ORTIZ hit  
12 his right arm. The CBP Officer told the rear passengers to relax and stop or he would deploy his  
13 OC spray. The CBP Officer then gave a second warning. The CBP Officer heard R. VILLA, the  
14 rear male passenger, state "fuck you" as ORTIZ continued to hit him in the arm. The CBP  
15 Officer attempted to place handcuffs on W. VILLA, while the officer also reached for his OC  
16 spray. As he was reaching for the spray, the officer felt R. VILLA grab his arm that was  
17 reaching for the OC canister. The CBP Officer then discharged his spray at the rear passengers.  
18 Additional CBP Officers arrived and assisted in handcuffing the occupants of the vehicle for  
19 officer safety reasons. W. VILLA, REYES, R.VILLA, ORTIZ, and the minor were escorted to  
20 the security office for a pat down that yield negative results for weapons or contraband. The  
21 vehicle was taken to the secondary lot.

22 On May 8, 2009, Francisca REYES-Llamas stated post-Miranda that she was going to  
23 ORTIZ house. REYES stated that she observed that the primary officer and W. VILLA  
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Sim W  
1 appeared to be arguing and she asked W. VILLA what was wrong. REYES stated that she heard  
2 the primary officer and W. VILLA both stated profane words in English. REYES said that she  
3 was compliant with the officers and they allowed her to take a pill for her heart when she stepped  
4 out of the vehicle after the OC spray was deployed in the car. REYES was interviewed and then  
5 released.

6 On May 8, 2009, Nancy ORTIZ stated post-Miranda that she went to Mexico to bring her  
7 father some food. ORTIZ stated that they were traveling back home. ORTIZ said that it  
8 appeared when they approached the booth that the primary officer seemed to have an attitude and  
9 used profanity towards the occupants of the car. ORTIZ stated that she did not hear the  
10 commands that the spray would be used. ORTIZ stated that she did not hit any officer. ORTIZ  
11 stated when the spray was deployed her concern was to block the spray to protect the minor.  
12 ORTIZ stated that the primary officer and W. VILLA were not listening to each other and  
13 butting heads.

14 On May 8, 2009, Ricardo VILLA stated post-Miranda that he and his brother went to  
15 Mexico to visit their grandparents. R. VILLA stated that the primary officer asked W. VILLA if  
16 he had a problem with him and that R. VILLA then asked the same question to the officer. R.  
17 VILLA stated that W. VILLA and the primary officer were both talking loudly and the primary  
18 officer cursed at W. VILLA. R. VILLA stated that the responding CBP Officer grabbed W.  
19 VILLA's arm and his brother pulled away and said "don't touch me". R. VILLA stated that he  
20 attempted to protect the minor when the pepper spray was deployed.

21 On May 9, 2009, William VILLA stated post-Miranda that he and his brother went to  
22 Mexico to visit their grandparents. W. VILLA stated that he greeted primary officer and the  
23 primary officer seemed to have attitude with him. W. VILLA stated that their birth certificates  
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were in the trunk of the vehicle. W. VILLA stated that the officer cursed at him. W. VILLA stated that when the responding officer grabbed his arm, he felt as though they were pulling him out of the car. W. VILLA stated that he told the officers to relax. W. VILLA stated that he did not hear any commands that OC spray would be deployed if they did not stop resisting. W. VILLA that approximately ten (10) seconds passed between the time his first wrist was cuffed and the OC spray was deployed. W. VILLA said he was concerned for his son.

William VILLA, Nancy ORTIZ-Villa, and Ricardo VILLA were charged with violation of Title 18 USC 111, Assaulting, Resisting, or Impeding Certain Officers. William VILLA, Nancy ORTIZ-Villa, and Ricardo VILLA were each served with a Notice to Appear in the Southern District of California, before the Honorable Judge Leo Papas, on Tuesday, May 12, 2009, at 1:00 p.m. William VILLA, Nancy ORTIZ-Villa, and Ricardo VILLA each acknowledged this by signing the Notice to Appear issued in their individual names..